CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY *v.* HARRINGTON.

ERROR TO THE KANSAS CITY COURT OF APPEALS OF THE STATE OF MISSOURI.

No. 853. Motion to dismiss or affirm submitted April 17, 1916.—Decided May 1, 1916.

Unless the injured employee of an interstate and intrastate carrier is engaged in interstate commerce at the time of the injury, the Federal Employers' Liability Act does not apply; and it is immaterial whether such employee had previously been, or in the immediate future was to be, engaged therein.

An employee of a carrier engaged in removing coal from storage tracks to coal chutes is not engaged in interstate commerce, even though the coal had been previously brought from another State and was to be used by locomotives in interstate hauls. *Del., Lack. & West R. R.* v. *Yurkonis*, 238 U. S. 439.